

Costa Rica
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GUIDE TO DOING BUSINESS IN HONDURAS

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1. Legal System

What type of legal system does the country have?

Honduras is a state of law. The country's legal system is derived from the Napoleonic Code with its roots in Roman law.

2. Foreign Investment

2.1. Are there any restrictions to foreign investment?

No. Except for some items such as public transportation and any other that the state may consider being part of the national strategy.

2.2. Requirements for investing in the country

1. Recording in the registry

There are two ways for a company that wants to invest in the country to do business in Honduras. They are: a) Setting up a local company; and b) Obtaining special authorization to do business in Honduras. Both cases need to be registered in the National Registry. However, special authorization to do business in Honduras is granted through a process involving the Secretariat of Industry and Commerce.

2. Tax requirements

Companies wanting to invest in Honduras must obtain first their National Tax Registry (RTN). Companies that were incorporated in Honduras or that have authorization to do business in Honduras can obtain it. The companies must file sales declarations with the Executive Income Directorate, as well as an income tax declaration at the end of the year and any other declaration requested based on the type of business being done in the country. In addition to the state taxes that have to be declared and paid, there are also municipal tax declarations that have to be done, such as taxes on real property, taxes on sales volume, etc.

3. Licenses and permits

Depending on the area or investment sector, various types of permits or licenses may be required. Any company that wants to set up operations in Honduras must obtain a Business Operating Permit in the municipality where it is setting up. Likewise, diverse businesses or industries need environmental licenses, water licenses, usage permits, etc.

4. Do you need to set up a local company?

Some businesses need to be done by national companies. However, in general terms, creating a local company is not necessary if you obtain special authorization to do business in Honduras. More than anything else, what is needed is, for the national or foreign company, to be authorized to do business in Honduras.

5. Requirements for opening a subsidiary of a foreign company

A subsidiary is understood in Honduras to be a legal company totally independent from the parent company. The requirements for opening a subsidiary are:

- An initial capital stock deposit of a minimum of \$1,325.00 for an S.A. (corporation) or \$260.00 for an S.R.L. (limited partnership).
- At least two shareholders (they may be individuals or companies);
- General company information: How it will be managed (board of directors and its members), managers, number of shareholders or partners, the shares held by each shareholder, the commercial purpose of the company, the company's business name, etc.
- Under certain situation corporations must have their stock controlled in its majority by Honduran capital. (51%)

2.3. Legal security for investing

Legal security for foreign investment is guaranteed by the state of law that governs in Honduras. Therefore, individuals, companies and government institutions may carry out any actions that the law allows.

3. Banking matters

1. Foreign companies opening bank accounts:

The banking system in Honduras is a little rigorous so in most cases, for a foreign company to open a bank account in Honduras, it must have a permanent legal representative in Honduras or be duly incorporated as a company in Honduras.

2. Loans for foreign companies

For a foreign company to take out a loan in Honduras, it must be incorporated as a company in Honduras. Honduran banks do not provide loans to companies that do not operate in Honduras. If a loan is applied for and it is not going to be used in Honduras, it needs authorization from the Honduran Central Bank.

4. Incentives for foreign investment

Currently, Honduras legislation grants investment incentives to various industrial and commercial sectors. Without a doubt, the sector with the most incentives is tourism. This reality is underscored by the approval by the National Congress of a project to declare the Islas de la Bahía a free trade zone/free port, providing tax and other incentives for companies that want to set up operations in that Honduran department.

5. Private property

5.1. Type of system that guarantees it

Article 103 of the Constitution of the Republic of Honduras (hereafter “the Constitution”) recognizes, encourages, and guarantees private property with just the limitations needed or the public interest established by law.

5.2. Expropriation

The Constitution also establishes (Article 106) that nobody can be deprived of their property without the cause of need or public interest set by the law or by a ruling founded on the law without a fairly priced indemnification being paid.

Applicable regimen

The applicable regimen derives from the constitution and follows the administrative procedures from the Secretary of Public Works, Transportation, and Housing.

6. Tax regimen

6.1. Applicable tax principle

Various principles apply to the Honduran tax regimen but, along with the principles of legality, equality, and generality, the principle of proportionality stands out. In addition, Article 1 of the Income Tax Law (LISR) establishes that the tax rests on the principle of ability or capacity to pay by the taxpayer. Likewise, these are tax principles in Honduras: the principle of non-retroactive application and the principle of certainty.

6.2. What factors determine a company's tax domicile?

The place indicated in the articles of incorporation or their bylaws will be used as the domicile for companies. In case of doubt:

- i.- The place where the civil and mercantile activities are carried out or where the main establishment, business center, or interests are located;
- ii.- The place where the taxable activity takes place.

6.3. What taxes apply to companies with a tax domicile in the country?

Companies with a fiscal domicile in Honduras pay income tax, net asset tax, municipal real estate tax, and, if applicable, sales tax.

6.4. What taxes are applicable to those companies that receive income in the country but do not have a tax domicile in it?

They pay income tax. The percentages vary depending on the business, e.g.:

- Furniture or property rentals, 30%
- Royalties on mining operations or operations using other natural resources, 10%
- Wages, salaries, commissions, 35%
- Profits from branches, 15%
- Dividends, 15%
- Royalties on patents, manufacturer's brand names, copyrights, etc., 25%
- Income derived from public events, etc., 30%

6.5. What taxes are applicable to the following headings:

1. Dividends payable to foreign shareholders in the company

Income Tax, freed from tax by Decree 194-2002.

2. Dividends received from foreign companies

Income Tax, freed from tax by Decree 194-2002.

3. Interest paid by foreign shareholders in the corporation

Income Tax, 5%

4. Royalties payable to foreign shareholders in the company

Income Tax, 25%

6.6. Are there control rules for foreign companies?

No, individuals and companies that make payments to foreigners are responsible for withholding the tax. Each company must declare the ISR annually.

6.7. Are there any specific capitalization regulations for foreign companies?

No.

6.8. Transfer price - local treatment

There is no specific regulation.

6.9. What taxes are applicable to imports and exports?

Imports: subject to the Central American duty system.

Exports: all national merchandise is taxed at 0%.

6.10. Are there treaties about double taxation?

No.

7. Labor Program

7.1. Minimum wage - specifications

A national regulation about the minimum wage is set by Article 125, 5 of the Constitution. It has been decreed by the Executive Branch in May 2004.

**MINIMUM WAGE TABLE
BY REGULAR WORK DAY**

ECONOMIC ACTIVITY	MINIMUM WAGE (IN LEMPIRAS
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16 and more workers	86.00
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7.2. National employees

1. Requirements for hiring

The labor law indicates that a person is capable of being hired when he or she has reached 16 years of age.

2. Causes for labor relationship termination

Article 111 of the Labor Code:

- a) Those established in the contract
- b) Mutual consent
- c) Death of physical disability or illness of the worker
- d) Worker imprisonment
- e) Force Majeure events or acts of God
- f) Loss of trust
- g) Business suspension for more than 120 days
- h) Closing the company
- i) Company insolvency or bankruptcy
- j) Notice of termination by either party
- k) Resolution decreed by the competent authority

7.3. Foreign employees

1. Requirements for hiring. Capacity to contract.

Employers are prohibited from employing less than 90% Honduras workers and to pay them less than 85% of the total salaries that are earned in the respective companies.

2. Causes for labor relationship termination

See 7.2 2. above

3. Immigration requirements.

To work in Honduras, the worker must have legal residency or a temporary permit to stay – or the pertinent application must be underway.

7.4. Taxes payable by the employee

Income tax for amounts received greater than US \$3,700 (Lps. 70,000.00) annually.

7.5. Taxes payable by the employer

Income Tax. In addition, the payments to the Honduran Social Security Institute (IHSS), the payments to the Honduran Professional Training Institute (INFOP) and the Solidarity Contribution Regimen (RAP-FOSovi).

7.6. Collective Labor Right

The right to strike and stoppage is recognized. Workers have the right of joining (articles 13, 14 and 128 of the Constitution) unions or cooperatives. The law recognizes the creation of social organizations to be of public interest.

8. Agency and distribution

8.1. Applicable Legislation

The applicable legislation in relation to agents and distributors is:

- The Law on Representatives, Distributors and Agents for National and Foreign Companies and its Bylaws;
- The international Dominican Republic – Central America Free Trade Agreement (DR-CAFTA);
- The DR-CAFTA Implementation Law

8.2. Requirements for foreign companies

Based on the new rulings adopted by the DR-CAFTA, the prohibition against foreign companies (in the United States, the Dominican Republic, and Central America) from being agents, representatives or distributors within Honduras is excluded. Requirements for foreign companies:

- Be incorporated in the country or have the authorization to do business in Honduras as a foreign company.
- Obtain any permit or license needed for the item the company is dedicated to (i.e.: operating permit, environmental licenses, etc.)
- Be a party to the respective representation, agency, or distribution contract.

8.3. Restrictions for foreign companies

There currently exist restrictions for foreign companies about being representatives, agents, or distributors (except for foreign companies incorporated in countries that are part of DR-CAFTA). To be able to be a representative, agent, or distributor, a company must be a Honduran national company and the majority of the capital stock must be controlled by Honduran capital.

8.4. Applicable tax regimen

The tax regimen applicable to agents, representatives or distributors is the regimen applicable to any national company, regulated by the tax laws of Honduras (the Income Tax Law, the Sales Tax Law, the Tax Code, etc.); except for the companies that are part of DR-CAFTA, which are part of a special regimen contained in the international trade agreement.

9. E-commerce

9.1. Applicable Legislation

Currently there is no special legislation for e-commerce in Honduras. However, there is a bill of law before the National Congress on the matter. Currently, the legislation applicable to commerce in general in Honduras is:

- The Code of Commerce;
- The Civil Code;
- The Consumer Protection Law;

9.2. Electronic signatures

Electronic signatures are still not accepted in Honduras; however, the subject is found in the bill of law about e-commerce that has been presented to the National Congress.

10. Economic and other information

10.1. Population:

7 million

10.2. Land Area

111,890 km²

10.3. Does national legislation provide a safe legal framework for foreign investment?

Yes

10.4. How stable is the economy in the country?

A certain degree of stability and gradual economic growth has been achieved in the country.

11. Information about Central America

11.1. The experience lived by the country in light of the Free Trade Agreement signed by Central America, the Dominican Republic and the United States of America (DR-CAFTA)

Currently, the companies that are taking advantage of the DR-CAFTA benefits are limited; however, more and more Honduran industries are making preparations to take advantage of it. Likewise, more and more interest is being seen on the part of foreign companies, mostly from the US, about exporting their products to Honduras. Although the fruits and benefits offered by the free trade agreement still do not reflect the Honduran reality much, projections into the future indicate that consumers will receive more benefits when a flood of merchandise at better prices is seen.

11.2. Viability of an efficient customs union

Currently, Central America has a customs union for most of the companies, with the exception of Costa Rica. This customs union is regulated by the Uniform Central American Customs Convention (CAUCA). In theory, all the member companies apply a uniform customs duty to the foreign products entering the country. This is an attraction for foreign investors in relation to setting up operations in the region, and not for national investors in certain countries, providing more growth and attraction in relation to the Central American region as a business market. In addition, an efficient customs union makes it possible for a company to set up operations in any of the member countries to be able to export to the whole Central American region.

11.3. Viability of registering a company at the regional level

The viability for a company to have a regional registration is the simple fact of the market expansion. By themselves, the Central American countries represent a fairly small market. However, if we look at Central America regionally and not individually, the region is fairly attractive

for investment since a company could see a greater benefit regionally so it opens up to making a greater investment than it would make individually in each country.

11.4. Viability of registering intellectual property at the regional level

As mentioned in the preceding section, when Central America is seen as a regional and not individual market, it becomes an attractive region for investment, making it possible for a company to carry out operations and do business regionally. The possibility of registering intellectual property regionally would provide companies with broader protection for their goods, brand names, and distinctions, since they are what provide added value to their products. In addition, we are living in a globalized world where the market is not just national; it is international so a regional intellectual property registry is a step forward for a company to not limit its market to a determined country, but to the whole region.

11.5. Advantages of commercial exchange among the countries in the region

Advantages caused by trade exchange among the countries in the Central American area are mostly the following:

- A broader market for their products;
- Protection for regional products ahead of foreign products from countries in North and South America, as well as Europe;
- Industrial growth for Central American companies. The competition forces them to offer better products and to use better technology in their industry, etc.
- Active trade in the region would make it possible in the long- and short-term for there to be general growth in the Central American region.